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Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal, submitted in accordance with Commission on Human Rights resolution 2005/78.

Summary

On 10 April 2005, the Government of the Kingdom of Nepal signed an agreement with the High Commissioner for Human Rights concerning the establishment of an office in Nepal. On 20 April 2005 the Commission on Human Rights adopted resolution 2005/78, welcoming the signing of the Agreement. This report is submitted by the High Commissioner pursuant to the Commission's resolution.

The Representative of the High Commissioner arrived in Nepal on 7 May 2005 to head the new office and an initial team of 10 human rights officers together with support staff. The information and analysis contained in the report reflects the team's investigations and work until end August 2005, and prior to the deployment of full staffing.

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The Commission on Human Rights, as well as recent conclusions of human rights treaty bodies and communications from special procedures, raised concern with regard to serious violations of international human rights and humanitarian law, committed by State authorities and by the Communist Party of Nepal (CPN) (Maoist). Given its mandate, the applicable law and the human rights situation in Nepal, the Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) is concerned about respect for human rights in the context of the armed conflict, respect for democratic rights, and long-standing human rights issues.

OHCHR-Nepal received reports of violations by State authorities in the conduct of the armed conflict as well as violations of democratic rights, including extrajudicial executions, the killing of civilians and the failure to protect civilians, disappearances, arbitrary arrest and detention, torture, threats, and violations of the rights to freedom of expression, freedom of assembly and freedom of association. In the few instances of which OHCHR-Nepal is aware, disciplinary action taken by State authorities to secure accountability for violations was limited, given the severity of the violations in question. State authorities have provided OHCHR-Nepal with generally good cooperation.

OHCHR-Nepal received information confirming violations of international law by CPN (Maoist), including summary executions, the killing of civilians, abductions, torture, extortion, forced recruitment, the bombing of civilian buildings and the recruitment of children, as well as serious economic and related disruption suffered by the general population resulting from *bandhs* (forced general strikes). CPN (Maoist) reports taking disciplinary action against some personnel responsible for violations and its leadership has assured OHCHR-Nepal of its full cooperation.

OHCHR-Nepal is investigating reports of human rights violations committed by "vigilante" groups that receive direct or indirect support from the security forces.

OHCHR-Nepal is concerned about the situation of children affected by the armed conflict — including the abduction and conscription of children and limitations on their access to education. It is also concerned about violence against women and the human rights situation of Dalits and members of indigenous nationalities, human rights defenders, journalists, leaders of political parties and internally displaced persons.

Economic impoverishment, severe social inequalities, vulnerability to trafficking and poor labour conditions, and caste, ethnic and gender discrimination are among the human rights concerns that predate the current crisis. Rights to health, to food and to adequate shelter, and other economic, social and cultural rights, are similarly placed at risk by discrimination, socio-economic conditions and the armed conflict.

Once fully established, OHCHR-Nepal will comprise approximately 50 international staff, together with national staff. It is establishing its headquarters in Kathmandu with four regional offices located in the towns of Nepalgunj, Pokhara, Kathmandu and Biratnagar. An inter-agency United Nations Human Rights Protection Working Group has been established under the chairmanship of the Representative of the High Commissioner. In addition to investigations and reporting, OHCHR-Nepal will advise and assist the National Human Rights Commission and civil society.

Contents

		Paragraphs	Page
I.	Introduction	1–5	4
II.	Context	6–19	4
	A. Political context	6–9	4
	B. Applicable international human rights law and international humanitarian law	10	5
	C. United Nations human rights treaty bodies	11	5
	D. Special procedures of the Commission on Human Rights	12–13	6
	E. The Nepalese legal context	14–17	6
	F. Government human rights commitments and coordination	18–19	7
III.	Respect for international human rights and humanitarian law	20–68	8
	A. Respect for human rights and international humanitarian law in the context of the armed conflict	20–54	8
	1. State authorities	21–35	8
	2. Communist Party of Nepal (Maoist)	36–41	11
	3. Vigilante groups	42	12
	4. Groups of special concern	43–54	13
	B. Democratic rights	55–63	15
	1. Arbitrary detention, freedom of movement and fair trial	56–57	15
	2. Freedom of assembly and freedom of expression	58–60	15
	3. Freedom of association	61–63	16
	C. Long-standing human rights concerns	64–68	17
	1. Caste and ethnic discrimination	65–66	17
	2. Gender discrimination and trafficking	67–68	17
IV.	OHCHR activities	69–74	18
V.	Conclusion	75	19

I. Introduction

1. On 10 April 2005, the Government of the Kingdom of Nepal signed an agreement (the Agreement) with the High Commissioner for Human Rights concerning the establishment of an office in Nepal. On 20 April 2005 the Commission on Human Rights adopted resolution 2005/78, welcoming the signing of the Agreement and requesting the High Commissioner to establish an office in Nepal with a mandate to assist the authorities in promoting and protecting human rights, to monitor the situation of human rights and observance of international humanitarian law, to report to the Commission and to the General Assembly, and to work in cooperation with other United Nations entities in Nepal in this regard.

2. The High Commissioner appointed Ian Martin as her Representative to head the office. He arrived in Nepal on 7 May 2005 to head an initial team of human rights officers together with support staff.

3. The Agreement guarantees the staff of the Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) freedom of movement and access to relevant information, including access to all prisons, detention centres and places of interrogation, without prior notice. It provides that His Majesty's Government shall designate a high-level liaison entity with decision-making capacity responsible for communications with the office. The Cabinet approved the Agreement on 8 June 2005 and the Nepali language translation was to be published in early September.

4. The Agreement also provides that the office shall engage all relevant actors, including non-State actors, for the purpose of ensuring the observance of relevant international human rights and humanitarian law. The establishment of the office was welcomed publicly and in communications to the Representative by the leadership of the Communist Party of Nepal (CPN) (Maoist). In a public statement on 11 August 2005 the Chairperson of CPN (Maoist) reiterated this welcome and stated that CPN (Maoist) policy was to allow OHCHR-Nepal to travel to any part of the country affected by the conflict, to investigate incidents, to visit prisoners under the control of the Party and to interview members of its units.

5. The present report is submitted by the High Commissioner to the General Assembly pursuant to Commission resolution 2005/78. The information and analysis contained in the report is up to date as of end August 2005, and reflects the investigations of the initial OHCHR-Nepal team, prior to the deployment of full staffing and the establishment of regional offices.

II. Context

A. Political context

6. The last multiparty parliamentary elections in Nepal took place in 1999. In May 2002 Parliament was dissolved on the recommendation of the then Prime Minister, Sher Bahadur Deuba. In October 2002 His Majesty King Gyanendra Bir Bikram Shah Dev dismissed Prime Minister Deuba, and from October 2002 to February 2005 three successive appointed Prime Ministers either resigned or were dismissed by the King, in the absence of a sitting Parliament.

7. Nepal has experienced internal armed conflict since the CPN (Maoist) launched its so-called "people's war" in February 1996. At the beginning of the conflict security operations were conducted by the Nepal Police, later reinforced by the establishment of the Armed Police Force (APF). In November 2001 the Royal Nepalese Army (RNA) was mobilized to combat the growing insurgency, and in November 2002 the Nepal Police and APF were placed under the "unified command" of RNA for joint counter-insurgency operations. In 2001 and in 2003 ceasefires were declared and peace talks initiated between the Government and CPN (Maoist), with the last such negotiations breaking down in 2003. The armed conflict has since intensified, leaving an estimated 12,000 people dead.

8. On 1 February 2005 King Gyanendra again dismissed the Government, citing the failure to hold elections and combat the insurgency effectively. He invoked article 115 (1) of the Constitution to declare a state of emergency, suspending some fundamental rights including freedom of assembly and expression, the right to information and privacy and rights related to preventive detention. In its resolution 2005/78, the Commission called upon the Government urgently to restore the multiparty democratic institutions enshrined in the Constitution and to respect the rule of law, without exception. King Gyanendra revoked the state of emergency on 29 April 2005.

9. Since 1 February 2005, executive authority in Nepal is exercised directly by King Gyanendra, as Chairman of the Council of Ministers. In the absence of a Parliament, since 2002 legislative action takes the form of ordinances decreed by the King. Article 127 of the Constitution provides that if any difficulty arises in connection with the implementation of the Constitution the King "may issue necessary Orders to remove such difficulty"; however, it also requires that such Orders be laid before Parliament.

B. Applicable international human rights law and international humanitarian law

10. Through ratification and the application of customary international law, a broad body of international human rights and humanitarian law standards are applicable in Nepal. Nepal is a party to the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women and as a signatory to its Optional Protocol; the Convention on the Rights of the Child and as a signatory to both its Optional Protocol on the involvement of children in armed conflict and its Optional Protocol on the sale of children, child prostitution and child pornography; and the four Geneva Conventions, of 12 August 1949.

C. United Nations human rights treaty bodies

11. Nepal is currently preparing a report under the International Covenant on Civil and Political Rights, having submitted its last report in 1994, in full (see CCPR/C/79/Add.42), and has requested support from OHCHR in the preparation of

its second periodic report under the International Covenant on Economic, Social and Cultural Rights, the initial report having been considered in 2001 (see E/C.12/1/Add.66). Reports under the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women were both considered in 2004 (see CERD/C/64/CO/5 and A/59/38, paras. 179-225, respectively). Nepal's second periodic report under the Convention on the Rights of the Child was considered by the Committee on the Rights of the Child in June 2005 (see CRC/C/15/Add.261). The second periodic report under the Convention against Torture is scheduled to be considered by the Committee against Torture in November 2005, the initial report having been considered in 1994 (see A/49/44, paras. 138-147).

D. Special procedures of the Commission on Human Rights

12. Nepal issued several invitations to individual holders of special procedures mandates, but has not issued a standing invitation. During 2004 Nepal received more than twice as many communications under the special procedures as any other country.

13. Following invitations from the Government, four special procedures visited Nepal: the Working Group on Arbitrary Detention in 1996 (see E/CN.4/1997/4/Add.2); the Special Rapporteur on extrajudicial, summary or arbitrary executions in 2000 (see E/CN.4/2001/9/Add.2); the Working Group on Enforced or Involuntary Disappearances in December 2004 (see E/CN.4/2005/65/Add.1); and the Representative of the Secretary-General on the human rights of internally displaced persons in April 2005, whose report is due to be presented to the Commission at its sixty-second session. The Special Rapporteur on the question of torture was invited to visit Nepal from 10 to 17 September 2005 and his report is also expected to be presented to the Commission at its sixty-second session. A number of other special procedures mandates have requested invitations to visit Nepal, including: since 2003, the Special Representative of the Secretary-General on the situation of human rights defenders; since 2004, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and also since 2004, the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Government informed OHCHR in August 2005 that it was ready to invite the interested special rapporteurs at mutually convenient dates.

E. The Nepalese legal context

14. The fundamental rights section of Nepal's 1990 Constitution contains substantial human rights guarantees, although the Human Rights Committee in 1994 expressed concern about limitations of the non-discrimination clauses in article 11 of the Constitution (see CCPR/C/79/Add.2, para. 7) and deplored the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency, particularly article 115 of the Constitution (ibid., para. 9). The Treaty Act 1990 explicitly states that international treaties to which Nepal is a party shall prevail over national laws that are inconsistent with them.

15. Article 15 of the Constitution provides that "no persons shall be held under preventive detention unless there is a sufficient ground of existence of an immediate threat to the sovereignty or integrity or law and order situation of the kingdom of Nepal". Special legislation introduced or revived in the context of the current crisis provides sweeping powers to the security forces. The Public Security Act (PSA) 1989 and its second amendment of 1991 allow for a person who allegedly threatens the "sovereignty, integrity or public tranquillity and order" of Nepal to be detained for up to 90 days without charge by order of the civilian chief administrative officer of the district, the Chief District Officer. The detention period can be extended to six months by the Ministry of Home Affairs and to 12 months with the approval of an advisory board.

16. The Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2004 (TADO) replaced an act passed in 2002 which established special powers to check "terrorist and disruptive acts". The act provided for preventive detention of up to 90 days "upon appropriate grounds for believing that a person has to be stopped from doing anything that may cause a terrorist and disruptive act". It was subject to a two-year sunset clause, but with the dissolution of Parliament in May 2002 the act was replaced by an ordinance and the period of lawful preventive detention extended to up to one year; an initial six months may be ordered, normally by the Chief District Officer, and an additional six months on the approval of the Ministry of Home Affairs. In its 2005 report, the Working Group on Enforced or Involuntary Disappearances strongly criticized the operation of TADO and recommended that the law be rescinded. The Committee on the Rights of the Child, in its June 2005 concluding observations on Nepal, expressed deep concern that there were reports of children being detained under TADO and recommended that it be amended or repealed in light of international juvenile justice standards and norms.

17. The Constitution provides for the right of any Nepali citizen to file a petition in the Supreme Court to challenge any law that imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by the Constitution. The Court was called upon to address serious constitutional questions during the state of emergency, including petitions to adjudicate non-suspended rights. The Court also issued writs of habeas corpus in a significant number of cases related to political and human rights activists detained under PSA, as well as persons detained under TADO. The Court has recently begun to consider the legality of a number of other Government actions including measures related to freedom of expression and freedom of association.

F. Government human rights commitments and coordination

18. In 2002 RNA, APF and the Nepal Police created "human rights cells" to address human rights concerns relating to their activities. In 2003 the Government established a Human Rights Promotion Centre in the Prime Minister's Office to coordinate the human rights-related activities of Government.

19. On 26 March 2004, the Government made a statement of commitments on the implementation of human rights and international humanitarian law, including the constitution of the High-level Human Rights Protection Committee to facilitate human rights monitoring and investigations by the National Human Rights Commission (NHRC) and to help implement its recommendations. In August 2005

the Government announced a reorganization of its coordination mechanisms regarding human rights, establishing three bodies: the Human Rights Protection and Promotion National Coordination Committee, chaired by the Minister for Foreign Affairs; the Human Rights Steering Subcommittee, chaired by the Chief Secretary; and the Human Rights Public Relations Committee, chaired by the Attorney-General. RNA stated its intention to upgrade the human rights cell to a directorate, headed by a brigadier-general, and to increase its staffing.

III. Respect for international human rights and humanitarian law

A. Respect for human rights and international humanitarian law in the context of the armed conflict

20. The Commission on Human Rights in its resolution 2005/78 expressed grave concern at serious breaches of humanitarian law committed by members of CPN (Maoist), which might constitute war crimes and crimes against humanity. It strongly urged CPN (Maoist) to immediately and unconditionally cease and renounce violence, disarm, and enter into negotiations with the genuine intention of rejoining the political process. It strongly condemned the repeated practice of members of CPN (Maoist) of unlawful killings, rape, extortion, forced displacement, mass abduction, and forced recruitment and labour targeted at civilians, as well as persecution and attacks against life, integrity and safety of political leaders and party members, human rights defenders, journalists, peace activists and others, and the recruitment and use of a large number of children. It urged the Government to take all necessary measures to prevent and put an end to extrajudicial and summary killings, all forms of sexual violence, enforced disappearance, arbitrary arrest, illegal incommunicado detention, as well as torture and other cruel, inhuman or degrading treatment or punishment.

1. State authorities

21. OHCHR has received reports of violations of human rights law and international humanitarian law allegedly committed by State authorities in the conduct of the armed conflict. These include extrajudicial executions, indiscriminate shooting or bombing leading to the deaths of civilians, threats to members of the local population accused of providing CPN (Maoist) with food or shelter, and the use of civilians under duress as informers, thereby placing them at risk of reprisals by CPN (Maoist). Persons accused by the security forces of being a CPN (Maoist) member or sympathizer were reportedly subjected to arbitrary arrest, long periods of preventive detention, torture, disappearance, or extrajudicial execution.

(a) Extrajudicial executions

22. The Special Rapporteur on extrajudicial, summary or arbitrary executions has raised serious concerns with the Government regarding alleged violations by security forces. OHCHR-Nepal is investigating a number of alleged executions of unarmed individuals under the control of security forces, as well as extrajudicial executions in the context of armed clashes; it is also following investigations and

court-martial proceedings undertaken by RNA in cases of past alleged extrajudicial executions.

(b) Disappearances

23. The Working Group on Enforced and Involuntary Disappearances, in its January 2005 report on its visit to Nepal, noted the dramatic rise in the number of enforced or involuntary disappearances in Nepal in the preceding two years. In 2004, the Working Group transmitted 136 new cases to the Government. During the Working Group's 2005 session 71 cases were closed on the basis of information provided by the Government and at the end of August 2005 there remained a total of 278 outstanding cases being considered. The Working Group also reported that NHRC had 1,619 disappearance cases to investigate, of which 1,234 were attributed to security forces. Since OHCHR established an Office in Kathmandu, cases of disappearance have been reported, including cases from 2005.

24. The Working Group recommended that the Government and the security forces should ensure that accessible, complete, accurate and up-to-date lists of detainees are kept, including of detainees in army barracks. RNA is in the process of establishing a national registry of those in its custody and provided two successive lists of detainees to OHCHR-Nepal, while acknowledging that these are not yet comprehensive. A number of disappeared persons were found to be in custody. RNA informed OHCHR-Nepal that investigative teams are currently visiting all regions in order to clarify outstanding cases.

(c) Arbitrary arrest, detention and rearrest

25. Arbitrary arrest and detention, closely linked to cases of disappearance, are among the most common violations reported. The Constitution provides that every person who is arrested and detained shall be produced before a judicial authority within 24 hours, excluding the time necessary for the journey from the place of arrest. However, those detained under TADO are not brought before a judicial authority unless and until habeas corpus petitions are lodged. OHCHR-Nepal found that in some cases formal detention orders were signed long after the arrest.

26. TADO provides that detainees should be held in a "humane place of detention". The Working Group stated that army barracks, where most TADO detainees have been held, "by any reasonable interpretation do not qualify as humane places of detention" (E/CN.4/2005/65/Add.1, para. 49). RNA told OHCHR-Nepal that it wished to transfer detainees to places of detention under the authority of the Ministry of Home Affairs, and was pressing for additional such facilities to be developed. The latest list provided by RNA of detainees held in army barracks, dated 26 July 2005, comprises 187 detainees, including significant numbers of persons initially detained in 2003 and 2004. OHCHR-Nepal urged that long-term detainees should be transferred immediately. The Ministry of Home Affairs stated to OHCHR-Nepal that it was unable to provide lists of those detained under PSA and under TADO, but that by the end of August no political detainees were detained under PSA and the total number of TADO detainees was approximately 1,200.

27. In August 2005, OHCHR-Nepal began visiting police cells, prisons and army barracks. In accordance with the Agreement, the visits were conducted without any prior notice, and human rights officers interviewed detainees in private, gathering

information about the legality of a person's detention, treatment and conditions of detention.

28. A number of cases of persons detained under TADO, as well as PSA, were the subject of habeas corpus petitions and in most instances the courts held the detention to be illegal and ordered the detainees released. In many cases the individual was immediately rearrested. Following the filing of contempt proceedings against the Government, on 27 June 2005 the Ministry of Home Affairs issued a circular conveying a ministerial-level decision of the Government that court orders are to be respected and that persons released are not to be immediately rearrested. OHCHR-Nepal is investigating the circumstances of a small number of subsequent rearrests.

(d) Torture

29. Numerous reports, including complaints to OHCHR-Nepal, indicate widespread use of torture, including torture of suspected Maoists and of criminal suspects, in both army barracks and police custody. In many cases, victims were severely and repeatedly beaten. Some victims testified to the use of electricity or of beatings on the soles of their feet.

30. OHCHR-Nepal intervened in a case in Kathmandu where an RNA sergeant detained and tortured an individual, apparently for private motives, and after the victim sought compensation he was rearrested in violation of a Supreme Court order and more severely tortured. A minor was beaten in the main Kathmandu police station shortly after he had been interviewed in the course of a visit by OHCHR-Nepal. Following an expression of concern from the office, the police investigated and took disciplinary action against the officers responsible. OHCHR-Nepal continues to interview alleged victims of torture and to urge the authorities to carry out effective investigations of their own and to punish the perpetrators.

31. The Compensation against Torture Act 1996 requires the State to compensate victims of torture and initiate action against the perpetrator. The first payment of compensation was made in July 2005 to a youth severely tortured by police four years ago. Many cases are outstanding. As noted in section II.D above, the Special Rapporteur on the question of torture was invited to visit Nepal in September 2005.

(e) The responsibility to protect the civilian population

32. Under international humanitarian law the security forces are required to take precautions to protect the civilian population in the course of military operations. There were multiple reports from civil society and the media of civilian deaths when RNA military operations failed to distinguish between civilian objects and military objectives, including through aerial bombardment from helicopters. Investigation by OHCHR-Nepal into the attacks by CPN (Maoist) against public transport in Chitwan and Kabhrepalanchok Districts (see para. 37 below) found RNA to have been in breach of the State authorities' humanitarian law responsibilities through failure to take precautions to protect the civilian population in the context of its repeated and regular use of public transport facilities. The office welcomed the willingness expressed by RNA to consider recommendations to amend its policy on the use of civilian transport.

(f) Accountability

33. RNA states that where human rights violations by military personnel take place, a board of inquiry is ordered and upon the findings and recommendations of the board the violator is brought to justice by a military court. RNA provided OHCHR-Nepal with a list of 44 cases of human rights violations from March 2002 in which judicial action was taken. OHCHR-Nepal requested details of these cases. Information so far made available indicates that many of these cases are of "extortion" or "misbehaviour", which would not be classified as grave violations of human rights. Punishment in cases involving grave violations appears light. An RNA major convicted by a court-martial of responsibility in the extrajudicial execution of 19 alleged Maoists on 17 August 2003 in Doramba, Ramechap District, was sentenced to two years' imprisonment and a junior officer was demoted.

34. RNA announced in August 2005 that it had taken action against two officers for sending armed troops in the passenger bus attacked by CPN (Maoist) on 10 June 2005 in Kabhrepalanchok. A military court demoted a captain to lieutenant and suspended the promotion of a lieutenant for one year "for not properly assessing the sensitivity of military operations".

35. RNA stated that it had introduced an internal disciplinary regulation to bar proven human rights violators from participating in United Nations peacekeeping operations. OHCHR will provide to the United Nations Department of Peacekeeping Operations information regarding individuals and units implicated in human rights violations, and officers who do not cooperate in accordance with the Agreement or who threaten or intimidate victims or witnesses, so as to facilitate a review of their suitability for deployment under the United Nations flag.

2. Communist Party of Nepal (Maoist)

36. Since the establishment of the office, OHCHR-Nepal has received information confirming that violations of international law by CPN (Maoist) include abductions, the killing of civilians, torture, the bombing of civilian buildings and the recruitment of children. The general population has suffered serious economic and other disruption resulting from frequent blockages of highways as well as *bandhs*, during which all professional and educational activity and motorized transport are ordered to stop by CPN (Maoist). Attacks on, and forced closure of, enterprises are becoming more frequent, depriving thousands of employees of the right to work.

37. On 6 June 2005, an attack by CPN (Maoist) on a public bus carrying a number of RNA personnel in the Madi Valley, Chitwan District, resulted in the death of at least 35 civilians and three RNA personnel, and many injuries. On 10 June 2005 a further attack took place on a public bus in the Narke Bazaar, Kabhrepalanchok District, causing the death of two civilians and four RNA personnel and many injuries. OHCHR-Nepal, having investigated these attacks, deplored the loss of life and injury caused and emphasized the primary responsibility of CPN (Maoist) for the killing of civilians in violation of international humanitarian law.

38. On 14 June 2005, six civilians — three women, two men and a 1-year-old child — were abducted, abused and murdered in the Banbehda area of Kailali District by unidentified perpetrators. All but one of the victims were related to Armed Police Force personnel. The APF report stated that CPN (Maoist) was the suspected perpetrator. A statement by the regional commander of CPN (Maoist)

denied this. The office's investigation could not reach a definite conclusion regarding the identity or affiliation of the perpetrators. OHCHR-Nepal called upon CPN (Maoist) to conduct an inquiry to establish whether any of its cadres were involved in the killings, and to make its findings public.

39. On 7 August 2005, CPN (Maoist) forces attacked an RNA encampment located at Pili, Kalikot District. The clash involved extensive loss of life on both sides. RNA initially stated that 40 RNA soldiers had been killed, the majority of whom it said were shot after having surrendered, and that an officer was mutilated. Some 60 RNA soldiers were captured. CPN (Maoist) denied allegations of executions and mutilation. OHCHR-Nepal urged CPN (Maoist) to treat captured RNA soldiers fully in accordance with international humanitarian law and recommended to RNA that it have independent forensic examinations conducted; such examinations were carried out by the Department of Forensic Medicine at Tribhuvan University.

40. OHCHR-Nepal received reports of the abduction by CPN (Maoist) of hundreds of civilians, many of them children, including for political indoctrination and forced recruitment. OHCHR-Nepal submitted to the CPN (Maoist) leadership 25 abduction cases involving over 60 individuals, including several children, emphasizing that such abductions are serious violations of international humanitarian law. OHCHR-Nepal also raised with CPN (Maoist) cases where persons were reported to have been killed after being abducted, as well as threats to the lives of teachers, journalists and local officials. In one instance CPN (Maoist) subsequently assured a threatened individual that he would not be harmed. Targeted killings of unarmed civilians attributed to CPN (Maoist) have not been clarified in spite of requests by OHCHR-Nepal for information. For example, on 21 June 2005 the dismembered body of a man abducted two days earlier was found in a public road with a note in the name of CPN (Maoist); OHCHR-Nepal has yet to receive any response from CPN (Maoist) regarding this killing.

41. In June 2005, the CPN (Maoist) central leadership publicly announced a commitment to ensuring that action would not be taken against unarmed civilians. In July regret was expressed in two separate statements for the killing of civilians in the Chitwan bus attack. CPN (Maoist) provided OHCHR-Nepal with the report of an investigation by its Central Committee into the Chitwan attack, which lays the responsibility for the attack on five of its personnel who, it stated, were detained. In August, in the context of the Pili attack, the Party restated its commitment to respect human rights and humanitarian law and gave public and private assurances that RNA personnel taken prisoner in Pili would be held in safety and soon released.

3. Vigilante groups

42. During 2005, self-defence or "vigilante" groups were formed in a number of districts. Such groups, created in areas where CPN (Maoist) has been active, often state that their primary aim is the defence of their communities in response to abuses and crimes committed by CPN (Maoist). These groups are reported to have committed serious human rights abuses and other crimes in the context of the armed conflict. OHCHR-Nepal is investigating reports that some groups have the direct or indirect support of the security forces.

4. Groups of special concern

(a) Internally displaced persons

43. Given growing concern that the conflict has given rise to increasing internal displacement, the Representative of the Secretary-General on the human rights of internally displaced persons (IDPs) undertook a mission to Nepal in April 2005. His preliminary findings were discussed with the Government and his report will be presented to the Commission at its sixty-second session.

44. The number of IDPs in Nepal is unknown for reasons that include fear among IDPs of identifying themselves as such, the absorption of many IDPs into their places of displacement, and patterns of economic migration into India.

45. The human rights concerns that cause IDPs in Nepal to leave their homes — killings, the threat of forced recruitment or abduction, extortion of food or money, threats, economic impoverishment — are generally the same that affect people who have not yet departed. Maoist retaliation against violence by vigilante groups has contributed to sudden mass displacement and occasionally led to the establishment of ad hoc camps. Once displaced, IDPs face a range of human rights concerns, including a lack of personal identification documents, limited access to free education and health services, poor employment prospects, the loss of property and other wealth, inadequate housing, increased vulnerability of children and women to trafficking, forced labour, and the effective loss of voting rights.

(b) Children

46. The Committee on the Rights of the Child, in its June 2005 consideration of the implementation of the Convention on the Rights of the Child in Nepal, noted with grave concern reports of the abduction and conscription of children for political indoctrination and for use as combatants, informants, cooks or porters, and as human shields, by CPN (Maoist). It expressed equal concern about reports of disappearances and arbitrary detention and of Government forces allegedly using children as spies and messengers (see CRC/C/15/Add.261, para. 81).

47. Both reports are corroborated by complaints made directly to OHCHR-Nepal. In many instances, under the slogan "one family, one boy", CPN (Maoist) is reported to demand that one recruit be provided to its forces from each family, and children are often forcibly recruited in this way. OHCHR-Nepal has no evidence of the recruitment of children by RNA, but called for the investigation of reports of children being used as informants by the security forces. Reports were also received of the enrolment of children into vigilante groups.

48. In some instances, children abducted or forcibly recruited by CPN (Maoist) have either been captured by RNA or have escaped from CPN (Maoist) and been subsequently arrested by the security forces. Some of these children have been detained under TADO for long periods and without judicial oversight. Reports indicate that other children have escaped or deserted from CPN (Maoist) but are afraid to return to their homes for fear of arrest by the security forces.

49. Access to education has been severely limited by the armed conflict. Attendance for the past school year was estimated at only 100 days for children in highly affected areas of the country. The abduction of pupils and teachers for political indoctrination and rallies, school closure by CPN (Maoist), threats by CPN

(Maoist) against teachers and school administrations that charge fees, the occasional use of school buildings as army barracks or temporary shelters by both the security forces and CPN (Maoist), the destruction of schools during military operations, and the actual killing of teachers and pupils all limit respect for children's rights, including the right to education.

50. OHCHR-Nepal, in collaboration with UNICEF and the United Nations Country Team, will be considering how to provide information to the mechanism on children and armed conflict to be established under Security Council resolution 1612 (2005).

(c) Women

51. The effect of the conflict on women has not received sufficient recognition. OHCHR-Nepal is investigating reports of rape of women in rural communities by security forces, CPN (Maoist) personnel and vigilante groups, as well as sexual violence against women in custody or committed during search operations, including as a means of torture, and sometimes accompanied by disappearance or killing. Victims of sexual violence appear to have only very limited access to medical facilities and counselling. Similarly, compensation for widows and assistance for their children's education appear to be seriously inadequate.

(d) Human rights defenders

52. Human rights defenders were among those particularly targeted by the arrests, detentions and travel restrictions imposed by the Government after 1 February 2005, as well as being sometimes targeted by CPN (Maoist), and continue to be the subject of threats reported to OHCHR-Nepal. In August 2005, in Udayapur District, representatives of local human rights organizations were reportedly criticized and threatened with having their activities ended by the Chief District Officer and the RNA local commander for attending a meeting called by CPN (Maoist) on requirements for working in areas where CPN (Maoist) is active.

53. The work of human rights defenders is essential in monitoring, addressing and recording the ongoing human rights situation. OHCHR is giving high priority to protection of the role and situation of human rights defenders, whether working as individuals or collectively in organizations, as provided under the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

(e) Other targeted and vulnerable groups

54. In the context of long-standing caste and ethnic discrimination (see paras. 65 and 66 below), Dalits and members of indigenous nationalities experience disproportionately victimization and harassment by State authorities and CPN (Maoist), with the former suspecting the groups to be sympathetic to the insurgency and the latter trying to coerce members of the groups to join or support them. As a result, those who have no such affiliation fall under the suspicion of the security forces and are liable to be particular targets of conflict-related human rights violations.

B. Democratic rights

55. The Commission on Human Rights in its resolution 2005/78 called upon the Government to immediately reinstate all civil and political rights, to cease all state of emergency-related and other arbitrary arrests, to lift the far-reaching censorship, to restore freedom of opinion, expression and the press as well as the freedom of association, to immediately release all detained political leaders and activists, human rights defenders, journalists and others, and to allow all citizens to enter and exit the country freely.

1. Arbitrary detention, freedom of movement and fair trial

56. Although the state of emergency was lifted on 29 April 2005, when OHCHR opened its office hundreds of those detained under PSA after 1 February 2005 were still in detention. Political activists and human rights defenders continued to be intercepted at the airport and prevented from travelling abroad. These restrictions on freedom of movement appeared to be ordered outside normal legal procedures and without due process. In almost all cases brought before it, the Supreme Court found the detentions illegal and ordered release, although a number of those released were immediately rearrested. OHCHR-Nepal expressed its concern that these rearrests appeared to amount to a policy to defy and undermine the judiciary. Almost all detainees in this category were released by July.

57. In March 2005 a Royal Commission for Control of Corruption (RCCC) was created by ordinance. The creation of RCCC was widely criticized as being outside existing constitutional and judicial frameworks, when the Commission for the Investigation of Abuse of Authority established under the Constitution already had the mandate to investigate corruption. On 25 April 2005 former Prime Minister Deuba was arrested and detained. On 26 April 2005, he was convicted by RCCC, together with former Minister Prakash Man Singh, of corruption in the Melamchi water supply project, of which the Asian Development Bank (ADB) was a major funder. An investigation by the Integrity Division of the Office of the Auditor General of ADB found no evidence of corruption. RCCC did not allow the ADB investigation report to be admitted as evidence. OHCHR-Nepal is assessing these convictions and the operation of RCCC in relation to international standards of fair trial guaranteed by the International Covenant on Civil and Political Rights, to which Nepal is a party.

2. Freedom of assembly and freedom of expression

58. Restrictions on public demonstrations in parts of Kathmandu remain in effect through orders of the local administration, despite the lifting of the state of emergency. Public gatherings challenging these restrictions have resulted in short-term arrests of students, political activists, journalists, civil society leaders and others. Six student leaders were arrested on 14 July 2005 and charged under the Public Offence and Security Act 1970 after they tore out pictures of the royal family, in a protest against their inclusion in school textbooks, and were alleged to have obstructed police. On 9 August the Supreme Court held that their detention was illegal and ordered their release. On 27 July 2005, student leader Gagan Thapa was arrested and eventually charged with violating the Offences Against the State Act 1989 which punishes with up to three years' imprisonment actions deemed directly or indirectly to foment "hatred, malice or contempt towards the King or the

Royal Family". He had reportedly shouted slogans against the King during a peaceful public demonstration on 25 July. On 14 August he was released on bail. OHCHR-Nepal expressed concern to the Attorney-General regarding the apparent use of the Offences Against the State Act to restrict freedom of expression, in possible violation of international standards of freedom of expression guaranteed by the Covenant.

59. Following the declaration of the state of emergency, the Government banned for six months any "interview, article, news, notice, view or personal opinion that goes against the letter and spirit of the Royal Proclamation of 1 February 2005 and that directly or indirectly supports destruction and terrorism", and censorship was enforced by the security forces. Although direct censorship is no longer in force and the media in Kathmandu enjoy considerable freedom of expression, there continue to be frequent reports of threats to journalists throughout the country, from the security forces and the civilian administration. Journalists are also victims of abductions and serious threats from CPN (Maoist). The Government banned the broadcasting of news on FM radio stations and attempted to revoke the licence of a leading FM radio station that resumed broadcasts in early August. On 10 August the Supreme Court issued an interim order directing the Government not to implement the revocation of the license until a further hearing.

60. The Ministry of Information and Communications is reviewing the existing media law. OHCHR-Nepal will examine any revised legislation for conformity to international standards on the right to freedom of opinion and expression.

3. Freedom of association

61. On 14 July 2005 the King promulgated an ordinance making significant changes to the Social Welfare Act 1992. The ordinance provides for the Social Welfare Council to frame and implement a code of conduct for social organizations or institutions and to suspend or dissolve any organization that does not observe this code. The NGO Federation of Nepal expressed concern that the code would be used to undermine the independence of NGOs. The Minister for Women, Children and Social Welfare assured OHCHR-Nepal that there would be wide consultation with NGOs, donors and the United Nations on the draft code. The office drew the attention of the Government to the principles of freedom of association for human rights defenders set out in the report of the Special Representative of the Secretary-General on the situation of human rights defenders (A/59/401), which focused special attention on freedom of association because of the multiple ways in which this right is restricted and its centrality to the work of defenders.

62. A July 2005 amendment to the Civil Service Ordinance imposes restrictions on the right to freedom of association of civil servants, including the annulment of existing organizations of civil employees, and was the subject of a complaint to the Committee on Freedom of Association of the International Labour Organization (ILO).

63. A report of the ILO Conference Committee on the Application of Standards, reflected in the provisional record of the ninety-third session of the International Labour Conference, held in June 2005, relates the concerns of Worker members that following 1 February 2005, "nearly two dozen trade union activists" were among the hundreds detained, "trade union offices were monitored, searched and at times closed down, union meetings had been forbidden and rallies had been banned, while

registration of several union organizations had been refused".[1] Nepal is also the subject of a complaint by the International Confederation of Free Trade Unions to the ILO Committee on Freedom of Association concerning trade union rights violations in Nepal. The Government stated to OHCHR-Nepal that some of the complaints sent to ILO were false.

C. Long-standing human rights concerns

64. Economic impoverishment, severe social inequalities and discrimination are among the human rights concerns that predate the crisis. They are, however, relevant to the conflict both because they are seen by some to be among its root causes, and because the armed conflict itself has aggravated an already serious situation. The rights to health, to food and to adequate shelter, and other economic, social and cultural rights, are all at risk.

1. Caste and ethnic discrimination

65. Centuries-old practices in Nepal regulate interactions between members of lower and higher castes, as well as between ethnic groups, through a strict hierarchy. Dalits, the lowest caste, are defined by the National Dalit Commission as "those communities who, by virtue of caste-based discrimination and untouchablity, are most backward in the social, economic, educational, political and religious spheres, and are deprived of human dignity and social justice". In practice, their access to land ownership, citizenship, and health and education services, among others, is limited. Nepal also has over 60 different indigenous nationalities, or Janajatis, who are similarly disadvantaged. These groups are marginalized socially and politically with little say in decision-making within the State.

66. The Government's Civil Service Ordinance 2005 made provisions for affirmative action regarding Dalits and Janajatis. In its 2004 concluding observations, the Committee on the Elimination of Racial Discrimination welcomed State action in favour of Dalits, nationalities and indigenous peoples and noted the establishment of institutions to combat discrimination, including the National Dalit Commission and the National Foundation for the Development of Indigenous People and Nationalities (CERD/C/64/CO/5, paras. 4 and 5). The Committee nevertheless expressed multiple concerns including at allegations of ill-treatment, ineffective protection and discrimination against these groups by law enforcement officials (ibid., para. 15). NGOs urged that the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance should visit Nepal at the earliest opportunity.

2. Gender discrimination and trafficking

67. Gender inequality exists in almost every facet of Nepalese society, including under the law, in the economy and in the family. Under Nepalese legislation, for example, daughters do not have equal inheritance rights with sons, divorced women do not benefit from property rights, and Nepalese citizenship can be passed on to children only by fathers. Despite legal prohibition, the sexual exploitation of girls in the form of traditional and religious customs still exists. Women members of

[1] International Labour Conference, ninety-third session, Geneva, 2005, Provisional Record, No. 22, part two, p. 64.

marginalized groups face multiple discrimination on the basis of both caste or ethnicity and gender.

68. Trafficking in women and girls — for domestic work, forced begging, marriage, the sex trade and carpet weaving — is a critical problem. Inequality, poverty and population displacement are all aggravating factors and trafficking has been exacerbated further by the conflict.

IV. OHCHR activities

69. Since March 2003, OHCHR has deployed a Senior Human Rights Adviser to the office of the United Nations Resident Coordinator in Nepal. In June 2004 the first two OHCHR international advisers were provided to assist NHRC under a joint OHCHR-UNDP capacity development project; they were joined in early 2005 by two further international advisers. In response to the human rights violations under the state of emergency, a Human Rights Information Unit was established under the Resident Coordinator as an extension of the role of the Senior Human Rights Adviser.

70. Within a week of signature of the Agreement, an OHCHR needs-assessment team arrived in Nepal to begin preparations to establish an office. In early May 2005 the Representative of the High Commissioner and six human rights officers joined the staff already in place under the previous projects, together with security and administrative staff. With the valuable support of the Resident Coordinator and the United Nations Country Team, OHCHR initiated activities envisaged in the Agreement. Plans for the office to comprise approximately 50 international staff, including United Nations Volunteers, together with national professional and support staff, were presented to Member States. Member States have been generous in their response, and while some contributions are yet to be formally pledged, indications are that the necessary funding will be available for at least the first year of the operation.

71. OHCHR-Nepal is establishing its headquarters in Kathmandu, and its first regional office in Nepalgunj, covering the far-western and western regions of Nepal. Regional offices will also be opened in Pokhara and Biratnagar, covering the mid-western and eastern regions of the country, respectively.

72. The office is mandated to advise the Resident Coordinator and the Country Team on human rights protection and capacity-building and to coordinate resulting human rights activities. To this end an inter-agency Human Rights Protection Working Group has been established under the chairmanship of the Representative, and will establish subgroups on child protection, protection of IDPs and other priority human rights protection issues.

73. The Agreement mandates OHCHR-Nepal to advise and assist NHRC, replacing a December 2004 memorandum of understanding under which such technical assistance was previously provided. NHRC was established in 2000, in accordance with the Human Rights Commission Act 1997, and the terms of the first commissioners expired in May 2005. The appointment of the new commissioners, in a situation where the procedure set out in the 1997 Act could not be followed owing to the dissolution of Parliament and was amended by ordinance, has been the subject of controversy. An OHCHR mission was undertaken to review these developments,

assess how the present context may impact the work of NHRC, and make recommendations on future assistance.

74. The Agreement states that the office shall provide advisory services and support in the areas of its competence to representatives of civil society, human rights NGOs and individuals. The office has given the highest priority to establishing close working relationships with NGO partners without whose cooperation it would be unable adequately to fulfil its own mandate.

V. Conclusion

75. Nepal has been experiencing a grave human rights crisis. The willingness of His Majesty's Government to agree to the establishment of an Office of the High Commissioner for Human Rights and the commitments of cooperation by both parties to the conflict offer the hope that human rights and international humanitarian law may be better respected in practice. The office is committed, under the Agreement, to operate as a centre for consultations and dialogue, providing a climate of trust. It can thus make its contribution to the lasting peace that is hoped for by the people of Nepal, and that is the essential foundation for the long-term protection and promotion of human rights in the country.

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Sixtieth session
Item 125 of the provisional agenda*
Proposed programme budget for the biennium 2006-2007

Financial viability of the United Nations Institute for Training and Research

Report of the Secretary-General

Summary

In section X of its resolution 59/276 of 23 December 2004, the General Assembly, while stressing the importance of maintaining the current level of the training programmes of the United Nations Institute for Training and Research (UNITAR), requested the Secretary-General to submit at the beginning of its sixtieth session, and prior to the introduction of the proposed programme budget for the biennium 2006-2007, a comprehensive report on all aspects of the financial situation of the Institute, including proposals which would address the long-term, sound and predictable funding of rent and maintenance costs.

In order to maintain and/or expand the current level of training programmes for international cooperation and multilateral diplomacy and provide for long-term, sound and predictable funding of rent and maintenance costs, it is reiterated that UNITAR could be provided with an annual subvention, not exceeding its annual rental, maintenance and other administrative costs, associated with conducting the core training programme for the previous year. The General Assembly may wish to consider the present report in the context of the proposed programme budget of the biennium 2006-2007.

* A/60/150.

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I. Introduction

1. In paragraphs 2 through 5 of section X of its resolution 59/276, the General Assembly:

(a) Stressed the importance of maintaining the current level of the training programmes of the United Nations Institute for Training and Research (UNITAR) and requested the Board of Trustees to make every effort to ensure that in 2005 the level of training programmes would be maintained;

(b) Stressed also the need for continued consideration of the issues related to the Institute's rent, rental rates and maintenance costs, taking into account its financial situation with a view to its expeditious resolution;

(c) Requested the Secretary-General to submit, as a priority, to the General Assembly at the beginning of its sixtieth session, prior to the introduction of the proposed programme budget for the biennium 2006-2007, a comprehensive report on all aspects of the financial situation of the Institute, including proposals that would address the long-term, sound and predictable funding of rent and maintenance costs;

(d) Decided to consider the outcome of its consideration of that report in the context of the proposed programme budget for the biennium 2006-2007.

2. The present report has been prepared in compliance with that resolution.

II. Background

3. The issue of the cost of rent and maintenance charged to UNITAR and its relation to the Institute's core training programmes for international cooperation and multilateral diplomacy has been considered by the General Assembly on an annual basis since 1997, when the Assembly, in its resolution 52/206, called upon the Secretary-General to explore all possible ways and means to provide additional facilities to the Institute for conducting programmes and training courses that were provided at no cost to States and to their representatives accredited to United Nations Offices in New York, Nairobi, Geneva and Vienna.

4. In response to the provisions of a number of resolutions regarding the rental and maintenance costs charged to the Institute, the Secretary-General reiterated that, taking into account the related provisions of General Assembly resolutions 41/213 and 47/227 and the fact that the United Nations regular budget should not have to bear any part of the rental expenses of bodies supported by extrabudgetary funds, he is not in a position to propose a waiver or reduction of the rental rates and maintenance costs charged to UNITAR without the express decision of the Assembly in this regard.

5. Consequently, in his report (A/58/544), submitted in response to the provisions of General Assembly resolution 56/208, the Secretary-General proposed that the Assembly consider, in the light of the training programme for international cooperation and multilateral diplomacy, an annual subvention of $165,630, in respect of its rental maintenance and other administrative costs, from the regular budget of the United Nations. Related amendments to paragraph 13 of article VIII of the statute of UNITAR, which states that no extra cost to the regular budget of the

United Nations may be incurred as a result of the utilization by the Institute of the general administrative personnel and financial services of the United Nations, were also proposed.

III. Existing arrangements for financing the activities of the United Nations Institute for Training and Research

6. In accordance with the statute of UNITAR, the expenses of the training programmes for international cooperation and multilateral diplomacy and their operating costs, as well as other administrative expenses for maintaining normal to day-to-day operations, including rental and maintenance costs, are covered by the Institute's General Fund. Other specialized training programmes, research and study projects, designed and conducted by the Institute for other United Nations bodies, specialized agencies, Member States and non-governmental organizations, are financed from the Special Purpose Grants Fund on a fully reimbursable basis, without resulting in any financial obligations to the General Fund. Special purpose grants shall cover, in addition to the full costs of implementing the project (direct costs), including administrative costs, an execution fee that should be determined by the Executive Director of the Institute on a case-by-case basis but should not be less than 13 per cent in each case (see General Assembly resolution 42/197, sect. I.C).

7. The UNITAR General Fund is financed from voluntary contributions made by Governments, intergovernmental organizations, foundations and other non-governmental sources, as well as from the programme support costs reimbursement income generated by expenditures of the Special Purpose Grants Fund. Owing to a declining level of contributions to the General Fund and an increase in the number and scope of special purpose grants, support costs reimbursement income has gradually become the major source of income for the General Fund.

IV. Financial situation of the United Nations Institute for Training and Research and related conclusions at the forty-third session of the Board of Trustees

8. During its forty-third session, held in Geneva on 26 and 27 April 2005, the Board of Trustees of UNITAR considered the financial situation of the Institute, discussed resolution 59/276 at length and submitted its conclusion, contained in paragraph 24 below, to the Secretary-General.

9. Despite the significant fund-raising efforts on the part of the Institute, the voluntary contributions by country to the General Fund over the last four years (see annex I) are still at a modest level, averaging a mere $350,000, or 17.5 per cent of the level during the 1970s and 1980s, an amount that is not sufficient to fully cover the costs of training for international cooperation and multilateral diplomacy. As a trend, voluntary contributions to the UNITAR General Fund have significantly declined over the period from 1965 to 2004 (see annexes II and III).

10. Owing to the expansion of the Special Purpose Grants and the consequent increase in programme support costs paid by the programmes to the General Fund, the general financial situation of the Institute has improved slightly: the excess of income over expenditure for the General Fund was over $400,000 as at

31 December 2004 (see annexes IV and V). This outcome is in contrast to the results from the past few years, which showed an excess of expenditure over income resulting in the reduction of the fund balance and consequently raised concerns regarding the future of the Institute.

11. Although the objective set by the Board in 1994, to bring the fund balance of the General Fund to at least $1,000,000, has been reached ($1,135,748 as at 31 December 2004), this does not mean that the General Fund has overcome its vulnerability. UNITAR should endeavour to maintain that level to guard against "lean periods" when funding may drop for various reasons. This is necessary and even vital, considering that UNITAR depends on voluntary contributions, with payments made throughout the year. Carryover is the only way to avoid a serious cash-flow crisis. In any case, the current excess of income is not sufficient to carry out, on a full-cost basis, the training courses that UNITAR is requested by the General Assembly to prepare and conduct, if additional funds for this purpose are not received.

12. The fund balance for the Special Purpose Grants Fund was $8,564,689 as at 31 December 2004. Although this balance appears significant and gives the impression of excess funds, these funds are in fact all earmarked for specific projects. All funding is paid in advance and some donors fund multi-year projects up front.

13. The actual positive balance of the General Fund results mainly from an increase in programme support income received from the Special Purpose Grants. However, this income should be primarily for covering administrative costs relating to special purpose grants, overall administration and management of the Institute and, ideally, fund other training programmes offered to representatives from Member States, which should be financed from voluntary contributions to the General Fund.

14. The recent improvement in the financial situation of UNITAR is also the result of strict management centred on three main axes:

(a) Continuous fund-raising with the Member States: this has produced positive results, even if they are still insufficient in comparison with the efforts put forth;

(b) Systematically charging the 13 per cent of programme support costs (overhead) to programmes grants whenever possible. The average rate of overhead reached more than 11 per cent in 2004;

(c) Supporting the growth of Special Purpose Grants programmes, which are an important source of financing for the General Fund through programme support costs.

15. Despite these developments in the financial situation, payments owed to the United Nations for rent maintenance and other services provided in 2003 and 2004 in the amount of $202,700 have not been disbursed (see annex VII).

V. Predictable funding of rent and maintenance cost and its relation to the core training programme for international cooperation and multilateral diplomacy

16. As indicated in paragraph 6 above, the expenses of the training programmes for international cooperation and multilateral diplomacy, as well as other administrative expenses for maintaining normal to day-to-day operations, including rental and maintenance costs, should be covered by the Institute's General Fund. Consequently, after the deduction of all administrative costs, including those pertaining to the overall administration and management of the Institute and rental and maintenance costs, the remaining balance should cover the training programme for international cooperation and diplomacy. If, as provided in General Assembly resolution 42/197, section I, paragraph 3, the core training programme, financed from the General Fund, is adjusted in the light of the financial resources available, there may not be additional resource requirements above the approved budget. However, if the core training programmes for international cooperation and multilateral diplomacy are maintained at the current level and/or expanded, the question of prioritizing expenditure objectives, taking into account the varying levels of contributions to the General Fund and of the special purpose grants support costs income, may arise, thus affecting other parts of the General Fund, namely administration and management expenses as well as rent and maintenance costs.

17. In this connection, it must be underlined that while the Special Purpose Grants Fund is reaching a satisfactory level and is on the increase, the General Fund, while slightly improved, remains very vulnerable and cannot ensure the predictable long-term funding of the core training programme offered by the Institute to diplomats. Given the present level of contributions to the General Fund, UNITAR cannot absorb its rent and maintenance costs and at the same time, maintain and/or expand its core training programmes. In this regard, the Board of Trustees, at its forty-third session, maintained its request to have the rental and maintenance costs, currently covered by the General Fund, borne by the regular budget of the United Nations.

18. In 2006-2007, the expected costs of the rental of office space for staff funded by the General Fund, including those working on the programme for international cooperation and multilateral diplomacy, as well as a related part of maintenance, shuttle, messenger and security and cleaning costs, would amount to $242,385. Annex VI shows the total 2006-2007 costs of rent and maintenance in Geneva and New York, estimated on the basis of the existing 2004-2005 rates.

19. It is expected that, in 2004-2005, the costs of the programme for international cooperation and multilateral diplomacy offered to diplomats and delegates accredited to the Organization in New York, Geneva and Vienna would amount to $675,000. UNITAR has also made a cost-assessment, assuming a diversification of the programmes in five venues: Nairobi (headquarters of the United Nations Environment Programme and the United Nations Human Settlements Programme) and four cities that host regional commissions, namely Addis Ababa, Bangkok, Beirut and Santiago. The assessment includes two one-week training workshops in each city per year. It is estimated that implementing the recommendation of diversifying venues would cost $300,000 per biennium (see annex VIII).

20. The UNITAR General Fund budget for the biennium 2004-2005 was approved in the amount of $2,300,000, including provisions for the core training programme

($675,000) and administrative expenses for maintaining normal to day-to-day operations in New York and Geneva ($1,625,000), including rent and maintenance costs in New York and Geneva ($420,500). It is expected that the final 2004-2005 expenditures would be within this approved level of $2,300,000. However, if, following the provisions of General Assembly resolution 59/252, training events organized by the Institute in 2005 are held in cities hosting regional commissions, additional requirements of approximately $150,000 per year could arise, which the Institute could not cover from within its existing resources.

21. In conclusion, although the overall financial situation of UNITAR has been improving, the continuing requests for the core training programme for international cooperation and multilateral diplomacy to be maintained at the current level and/or expanded to include other training events constitutes a challenge to the Institute's available resources. This is especially true given the low level of contributions to the General Fund and the possibility that the office space provided to UNITAR at subsidized rates at the Maison internationale de l'environnement in Geneva may not be available in the event that more environmental programmes need space in Geneva in the future.

22. In such a situation, subvention from the United Nations regular budget may be necessary to: (a) maintain the training programme for international cooperation and multilateral diplomacy at its present level; (b) diversify the venues of the events organized by the Institute and to include the cities hosting regional commissions in the developing regions, as proposed by the General Assembly in its resolution 59/252; and (c) address to a larger extent the numerous requests for training and capacity-building received from developing countries and countries with economies in transition.

23. The Secretary-General therefore reiterates the position, as expressed in his previous report on UNITAR (A/58/544), that the General Assembly should consider, in the light of the training programme for international cooperation and multilateral diplomacy, an annual subvention to UNITAR from the regular budget of the United Nations. The subvention should be equivalent to the amount of annual rental, maintenance and other administrative costs associated with conducting the core training programme for the previous year. The subvention should be subject to review by the Advisory Committee on Administrative and Budgetary Questions in the context of its usual consideration of the UNITAR budget for the next financial period.

VI. Conclusion

24. **The General Assembly may wish to consider the present report in the context of the proposed programme budget for the biennium 2006-2007.**

Annex I

Contributions to the General Fund of the United Nations Institute for Training and Research: 2001-2004[a]

	2001	*2002*	*2003*	*2004*	*2004 (pledge for 2005)*
Algeria	5 000	5 000	5 000	5 000	5 000
Austria				24 876	
Bahamas	3 000		6 000	3 000	
Botswana			2 442		
Brazil			3 000		
Chile	5 000	5 000	1 000	1 000	
China	10 000	10 000	—	10 000	
Cyprus	2 400	2 000	3 748	4 500	
Czech Republic	12 694	16 288	18 481	38 794	
Egypt	5 975	6 000	—	6 982	
France	27 274	22 299	35 336	36 101	
Ghana	5 000	—		10 000	
Greece	6 600	6 600	6 600	6 600	
Holy See	1 000		2 000	1 000	
Iraq			1 982		
Indonesia				5 000	
Israel		5 000	5 000	5 000	
Japan	77 000	77 000	69 235	50 000	
Kuwait	40 000	20 000	20 000		20 000
Libyan Arab Jamahiriya			7 299		
Malta	700	700	772	700	
Marshall Islands				1 500	
Mauritius	1 214	1 200		1 200	
Mexico	5 000	4 856		10 000	
Monaco	4 000		3 000	4 070	
Morocco		4 000	4 000		3 000
Namibia				1 000	1 000
Nigeria	55 936		18 000	13 328	
Oman		5 000			
Pakistan			10 000	10 000	
Philippines			456	2 081	
Republic of Korea	19 975		10 000		
Saudi Arabia			10 000	10 000	
South Africa				22 242	
Slovenia	580				

	2001	*2002*	*2003*	*2004*	*2004 (pledge for 2005)*
Sri Lanka	975	980			
Switzerland	57 788	55 760	69 408	80 078	
Thailand		2 000	2 000	2 000	2 000
Tunisia	3 383	1 843		3 850	
Turkey				3 000	
United States of America				50 000	
Yemen	2 000			5 967	
Subtotal	**352 494**	**251 526**	**314 759**	**428 869**	**32 607**
Public	30 849	185			
Total	**383 343**	**251 711**	**314 759**	**428 869**	**32 607**
Pledges receivable as at 31 December 2004				32 607	

[a] Contributions are recorded in United States dollars.

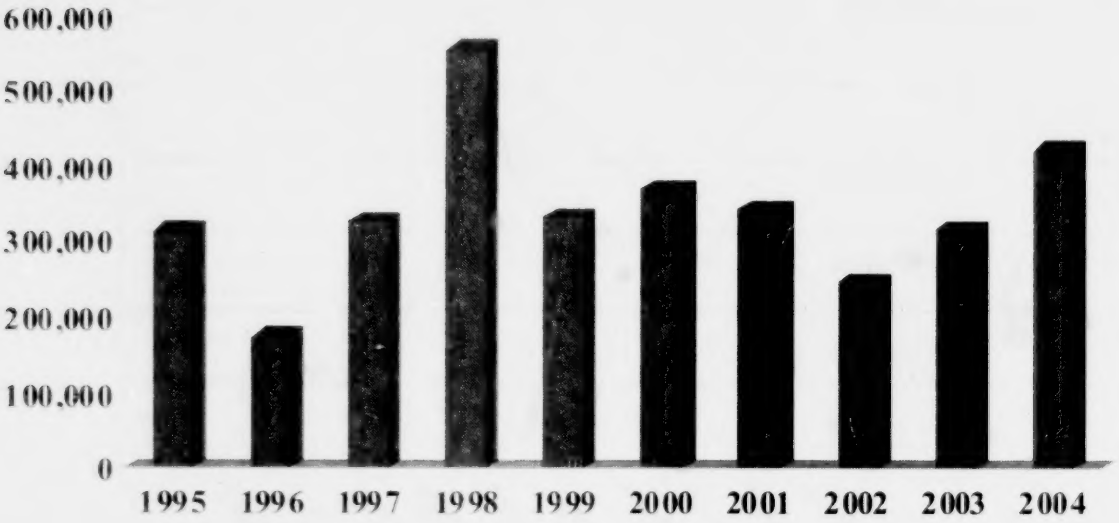
Annex II

Voluntary contributions to the General Fund of the United Nations Institute for Training and Research: 1965-2004[a]

[a] Contributions are recorded in United States dollars.

Annex III

Contributions to the General Fund of the United Nations Institute for Training and Research: 1995-2004[a]



[a] Contributions are recorded in United States dollars.

Annex IV

Summary of all funds of the United Nations Institute for Training and Research: statement of income and expenditure and changes in reserves and fund balances for the 12-month period of the biennium 2004-2005 ending on 31 December 2004[a]

		Other activities				
	General Fund	*Special Purpose Grants Fund*	*Activities financed by the United Nations Development Programme*	*All funds eliminations*	*Total 2004*	*Total 2002*
Income:						
Voluntary contributions	461 476	12 136 054	—	—	12 597 530	6 424 044
Funds received under inter-organizational arrangements	—	—	349 148	—	349 148	353 756
Programme support income	1 035 491	—	—	(1 035 491)	—	—
Interest income	25 286	194 724	—	—	220 010	232 475
Other/miscellaneous income	16 193	33 578	—	—	49 771	30 804
Total income	**1 538 446**	**12 364 356**	**349 148**	**(1 035 491)**	**13 216 459**	**7 041 079**
Expenditure:						
Staff and other personnel costs	861 422	5 329 143	188 378	—	6 378 943	4 236 124
Travel	36 034	744 389	47 204	—	827 627	639 590
Contractual services	848	390 301	55 753	—	446 902	460 914
Operating expenses	218 757	328 700	11 682	—	559 139	239 676
Acquisitions	9 552	120 147	11 272	—	140 971	112 367
Other	1 655	2 004 123	8 354	—	2 014 132	921 798
Total direct expenditure	**1 128 268**	**8 916 803**	**322 643**	**—**	**10 367 714**	**6 610 469**
Programme support costs	—	1 008 986	26 505	(1 035 491)	—	—
Total expenditure	**1 128 268**	**9 925 789**	**349 148**	**(1 035 491)**	**10 367 714**	**6 610 469**

		Other activities				
	General Fund	*Special Purpose Grants Fund*	*Activities financed by the United Nations Development Programme*	*All funds eliminations*	*Total 2004*	*Total 2002*
Excess (shortfall) of income over expenditure	410 178	2 438 567	—	—	2 848 745	430 610
Prior period adjustments	(9 785)	10 785	—	—	1 000	—
Net excess (shortfall) of income over expenditure	**400 393**	**2 449 352**	—	—	**2 849 745**	**430 610**
Refund to donors	—	(947)	—	—	(947)	(8 796)
Provisional savings on or cancellation of prior periods' obligations	108 894	118 683	—	—	227 577	150 216
Reserves and fund balances, beginning of period	626 461	5 997 601	—	—	6 624 062	5 255 411
Reserves and fund balances, end of period	**1 135 748**	**8 564 689**	—	—	**9 700 437**	**5 827 441**

[a] All amounts listed are in United States dollars.

Annex V

Summary of all funds of the United Nations Institute for Training and Research: statement of assets, liabilities and reserves and fund balances as at 31 December 2004*

		Other activities			
	General Fund	*Special Purpose Grants Fund*	*Activities financed by the United Nations Development Programme*	*Total 2004*	*Total 2002*
Assets					
Cash and term deposits	1 225 335	9 761 761	—	10 987 096	6 140 347
Pledged contributions receivable	32 607	—	—	32 607	16 000
Due from United Nations General Fund	—	—	1 078 187	1 078 187	135 176
Receivable from funding source	—	—	—	—	94 780
Other accounts receivable	8 127	210 239	—	218 366	104 529
Total assets	**1 266 069**	**9 972 000**	**1 078 187**	**12 316 256**	**6 490 832**
Liabilities					
Unliquidated obligations	113 844	983 823	25 704	1 123 371	578 340
Due to United Nations General Fund	16 477	149 278	—	165 755	20 258
Payable to funding source	—	—	1 052 480	1 052 480	—
Other accounts payable	—	274 210	3	274 213	64 793
Total liabilities	**130 321**	**1 407 311**	**1 078 187**	**2 615 819**	**663 391**
Reserves and fund balances					
Operating reserves	150 000	—	—	150 000	137 366
Balances relating to projects funded by donors	—	8 564 689	—	8 564 689	5 164 323
Cumulative surplus (deficit)	985 748	—	—	985 748	525 552
Total reserves and fund balances	**1 135 748**	**8 564 689**	**—**	**9 700 437**	**5 827 441**
Total liabilities and reserves and fund balances	**1 266 069**	**9 972 000**	**1 078 187**	**12 316 256**	**6 490 832**

* All amounts listed are in United States dollars.

Annex VI

Estimated rental costs to be paid by the United Nations Institute for Training and Research during the biennium 2006-2007[a]

		Geneva		
Rent	*New York*	*Building 1*	*Building 2*	*Total*
Floor area, square metres	83	815	429	1 327
Annual cost of rent and charges per square metre	780.5	127	259	
Total rent and charges	129 564	207 325	222 026	558 915
Electricity		14 042	16 391	30 434
Shuttle[b]		13 334		13 334
Messenger and security[c]		44 806	23 585	68 391
Travel agency rental[b]		1 666		1 666
Cleaning[b]		42 846	24 538	67 383
Total rental costs	**129 564**	**324 018**	**286 540**	**740 123**
Total office rental costs Geneva and New York				**740 123**
Cost of office space distributed by fund:				
Offices for staff working in New York funded by the General Fund				129 564
Offices for staff working in Geneva funded by the General Fund (8.5[d] offices of 46 offices)				112 821
Total rental costs for staff funded by the General Fund				**242 385**
Offices for staff working on Special Purpose Grant Fund				497 748
				740 123

Note: Inflation and currency changes and building 1 costs, which are due to increase in 2008, have not been taken into account. UNITAR has rented offices in building 1 since 1998. In May 2004, UNITAR rented additional space in the new building, building 2.

[a] All amounts listed are in United States dollars.

[b] Estimation based on 2004 actual charges. No charge for building 2 for shuttle and travel agency rental as the United Nations Office at Geneva have apportioned the charges based on number of staff.

[c] Estimation based on 2004 actual charges for building 1. As charge by the United Nations Office at Geneva is apportioned in accordance to the square metres occupied, the estimation for building 2 is made pro ratio.

[d] This includes the offices of the Executive Director.

Annex VII

Payments of the United Nations Institute for Training and Research owed to the United Nations: 2003-2004[a]

Unpaid charges		*2003*	*2004*	*Total*
Rent — New York	United Nations Headquarters by inter-office voucher	64 782	64 782	129 564
Shuttle[b]	United Nations Office at Geneva	4 529	6 667	11 196
Messenger/security	United Nations Office at Geneva	20 000	22 403	42 403
Travel agency rental[b]	United Nations Office at Geneva	317	833	1 150
Office cleaning	United Nations Office at Geneva	18 387		18 387
		108 015	**94 685**	**202 700**

Note: Since 2004, cleaning charges have been invoiced to UNITAR directly by the Fondation immobilière pour les organisations internationales. 2003 charges were obligated in the biennium 2002-2003. This obligation expired 31/12/2004 and no further provision has been made. 2004 unpaid charges have been obligated in 2004.

[a] All amounts listed are in United States dollars.

[b] Invoice in Swiss francs in 2004; Dec. 2004 exchange rate used: $1 = 1.14 Swiss francs.

Annex VIII

Training programmes provided by the United Nations Institute for Training and Research to diplomats and delegates accredited to the United Nations[a]

Estimated costs in accordance with the approved budget, biennium 2004-2005	
Geneva	305 000
New York	325 000
Vienna	45 000
Total costs	**675 000**
Expected additional costs:	
Nairobi/Beirut/Santiago/Addis Ababa/Bangkok[b]	300 000
Total expected cost per biennium	**975 000**

[a] All amounts listed are in United States dollars.

[b] Costs estimated at $60,000 per venue to include two resource people and two courses per year.

United Nations A/60/361

General Assembly

Distr.: General
20 September 2005

Original: English

Sixtieth session
Item 8 of the provisional agenda*
General debate

Letter dated 16 September 2005 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

I have the honour to enclose herewith the text of the written statement of the delegation of the United Kingdom in exercise of the right of reply to the remarks made by Néstor Carlos Kirchner, President of the Argentine Republic, on 14 September 2005 in the General Assembly (see annex).

I should be most grateful if you could arrange to have the text of the present letter and the annexed statement circulated as a document of the General Assembly under agenda item 8.

(*Signed*) Emyr **Jones Parry**

* A/60/150

05-51453 (E) 200905

Annex to the letter dated 16 September 2005 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

Statement of the delegation of the United Kingdom of Great Britain and Northern Ireland in exercise of the right of reply to the remarks made by the President of the Argentine Republic in the High-level Plenary Meeting of the General Assembly on 14 September 2005

The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of 24. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.

There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the islanders so wish.

The United Kingdom has no doubts about its sovereignty over the Falkland Islands.

United Nations A/60/362–S/2005/593

General Assembly
Security Council

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General Assembly
Sixtieth session
Item 78 of the provisional agenda*
Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixtieth year

Identical letters dated 14 September 2005 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I would like to inform you of a request from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 that directly relates to its ability to implement its Completion Strategy. The President has requested that Judge Christine Van Den Wyngaert, a national of Belgium, be able to serve in the trial in Case No. IT-95-13/1, *The Prosecutor* v. *Mrksic, et al.*, which commences on 3 October 2005.

You will recall that Judge Van Den Wyngaert's term of office as a member of the pool of ad litem judges came to an end on 11 June 2005. However, in response to my request as contained in my letter of 7 January 2005 (A/59/666-S/2005/9), the Security Council, by its resolution 1581 (2005) and the General Assembly, at its 80th plenary meeting, on 20 January 2005, decided, inter alia, that Judge Van Den Wyngaert should continue beyond the expiry of her term of office as an ad litem judge in order to finish the *Limaj* case. Judge Van Den Wyngaert continues to serve in that case which the President of the International Tribunal has indicated is due to be completed in November 2005.

Subsequently, on 19 November 2004, Judge Van Den Wyngaert was elected as a permanent judge of the International Tribunal with a four-year term beginning on 17 November 2005.

Consequently, the approval of the Security Council as the parent organ of the International Tribunal and the General Assembly as the organ that elects its judges

* A/60/150.

05-53056 (E) 290905

would be need to allow Judge Van Den Wyngaert to serve as of 3 October 2005 on the *Mrksic* case, given that she has been authorized to continue her functions only as an ad litem judge in the *Limaj* case and that she will begin her elected four-year term as a permanent judge of the International Tribunal only on 17 November 2005.

I would therefore like to propose that the General Assembly and the Security Council authorize Judge Van Den Wyngaert's assignment to the *Mrksic* case as of 3 October 2005 as a permanent judge of the International Tribunal, notwithstanding the fact that her term as a permanent judge will begin only on 17 November 2005. This proposal, if approved, would for the period from 3 October to 17 November 2005, constitute an exception to article 12, paragraph 1, of the statute of the International Tribunal, which provides that the Chambers of the International Tribunal shall be composed of 16 permanent independent judges. Notwithstanding her early assignment to the *Mrskic* case, she would nevertheless be able to serve out her full four-year term ending on 16 November 2009.

I would also like to confirm that Judge Van Den Wyngaert's assignment to the *Mrskic* case would have no additional financial consequences for the International Tribunal.

I am sure that you will agree that it is highly desirable that every effort be made to ensure that the International Tribunal remains in the best position to achieve the target dates in its Completion Strategy. Allowing Judge Van Den Wyngaert to serve in the *Mrskic* case at this time will definitely assist in that purpose. I should accordingly be most grateful if you would bring the present letter to the immediate attention of the members of the General Assembly and the Security Council in order that they might take appropriate action on this matter as soon as possible.

(*Signed*) Kofi A. **Annan**

United Nations A/60/363

General Assembly

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20 September 2005

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Sixtieth session
Items 123 and 124 of the agenda

Programme budget for the biennium 2004-2005

Proposed programme budget for the biennium 2006-2007

Suspension of recruitment for posts in the General Service and related categories

Report of the Secretary-General*

Summary

The present report is submitted in accordance with General Assembly resolution 59/276. In that resolution the General Assembly requested the Secretary-General to report to it comprehensively at the beginning of its sixtieth session on the issue of lifting the suspension of recruitment for posts in the General Service and related categories for the remainder of the biennium 2004-2005.

High vacancy rates for the General Service and related categories for the period have resulted in significant difficulties with programme implementation across the Secretariat. Staff turnover between offices and departments has been extremely high. Vacancies arising in areas that require specialized skills or experience have been extremely difficult to fill. Short-term measures have included increased reliance on individual contractors and overtime for existing staff. However, the vacancy experience has shown that those interim measures are not sustainable in the long term, and, accordingly, it is recommended that the suspension of recruitment be lifted.

* Submission of the report was delayed because of the need to obtain input from departments and offices.

05-51501 (E) 051005

I. Introduction

1. By its resolution 58/270, the General Assembly requested the Secretary-General to suspend recruitment action for new vacancies in General Service posts for the biennium 2004-2005, with the exception of safety and security personnel and editorial assistants (text processors) in language functions, and to report on the progress made and on the impact of those measures in the context of his performance reports. The Secretary-General indicated in the first performance report on the programme budget for the biennium 2004-2005 that, in view of the difficulties being experienced as a result of the suspension, a report would be submitted to the General Assembly in the latter part of 2005 recommending, as appropriate, the lifting of the suspension of recruitment for posts in the General Service and related categories for the remainder of the biennium. In section VIII, paragraph 7, of its resolution 59/276, the General Assembly noted the relevant paragraph of the first performance report on the programme budget for the biennium 2004-2005 (A/59/578, para. 42) and requested the Secretary-General to report to the General Assembly comprehensively on the issue at the beginning of its sixtieth session. Accordingly, the present report has been prepared pursuant to resolution 59/276.

II. Vacancy rate analysis

2. With the suspension of recruitment for posts in the General Service and related categories, the filling of vacant posts has occurred through the placement or promotion of existing staff members, generally with the effect of creating other vacancies. General Service posts have become vacant through the movement of staff to other offices, as well as through the scheduled retirement and separation of staff members. As a result, while the distribution of vacancies within and among programmes has fluctuated over the course of the biennium, there has been a clear increase in the overall vacancy rate for posts subject to the suspension.

3. Paragraphs 39 to 42 of the first performance report (A/59/578) detail the 2004 vacancy experience and include summary information related to the impact of the suspension of recruitment. At the end of the 2002-2003 biennium a total of 151 General Service regular budget posts were reported as vacant. By the end of December 2004, the number of General Service regular budget posts reported as vacant had increased to 210. Following General Assembly action in December 2004, some 361 General Service posts were added to the regular budget staffing table, primarily reflecting efforts to strengthen security and safety. By end January 2005, vacant General Service posts amounted to 416 regular budget posts. Given the exception to the suspension of recruitment regarding safety and security personnel, and as a result of efforts to expeditiously fill those security posts, the overall number of vacant General Service regular budget posts was reduced to 315 posts as at the end of July 2005. The end July 2005 vacancy information reflects a General Service vacancy rate of 5.7 per cent, a rate which is still substantially higher than the rates for 2004 and prior years.

4. The following chart reflects annual average vacancy rates realized in recent years for General Service and related categories. As reflected below, the 2005 experience reflects vacancies at an average rate approximately twice that normally experienced.

5. Taking into account rates budgeted for new and continuing posts, composite rates of 3.9 per cent and 5.8 per cent were budgeted for the General Service and related categories for 2004 and 2005, respectively. By comparison, the realized vacancy rates amount to 3.2 per cent for 2004 and to 6.5 per cent for the period January to July 2005. Therefore, while the 2004 experience was below budgeted rates, the 2005 experience to date has exceeded budgeted rates, resulting in a second year experience trending towards an offset of the first year shortfall.

6. A full listing of vacancy rates by section as of 31 July 2005 is reflected in the annex to the present document.

III. Assessment of the impact of suspension of recruitment

7. At the start of the biennium, the impact of suspension of recruitment was limited, largely owing to the completion of recruitment actions for already existing vacancies (i.e., those advertised in 2003). In addition, some success was initially reported in filling vacant posts on a timely basis through internal recruitment either within an office or from other offices at the same duty station. However, by the second quarter of 2004 several departments had indicated increasing difficulties arising as a result of the suspension.

8. Competition among departments for staff has been intense and staff turnover has been at high levels. Succession planning within the General Service and related categories has been virtually impossible, with no new entry level staff being recruited. Often, eligible candidates who apply for a vacant post in one office are selected by another office before the selection process is completed. In such cases, if no other candidate on the Galaxy staffing list satisfies the requirements for the position, the vacancy must be readvertised, resulting in a prolonged period of programme implementation without the required staffing levels. An increased burden has been placed on programme managers, who are forced to spend a disproportionate amount of time on the recruitment process. An inordinate amount of time has been devoted to dealing with vacancies, as well as to the training of new staff.

9. Vacancies in specialized areas have been extremely difficult to fill. For example, difficulty has been reported in engaging graphic designers, desktop publishers and audio-visual production assistants. In some instances, vacant positions required a combination of skills or languages, for which no suitable candidate could be found internally. Those positions were advertised, and often readvertised, and then the requirements lowered so as to accept the best candidates available internally. Given the shortage of qualified candidates, and the frequent need to advertise posts more than once, significant delays have been experienced in filling posts.

10. Difficulties have been reported in obtaining experienced candidates necessary to maintain staffing levels in a wide spectrum of areas, including the coordination of humanitarian assistance activities, operational support of human rights activities, and the organization and support of workshops and meetings necessary for programme implementation. Difficulties have also been reported in various areas throughout the administration, including facilities management, where delays have occurred in the processing of work orders and the provision of help-desk services.

11. One of the areas critically affected by the suspension of recruitment is the messenger sub-unit of the Mail Operations Unit in the Office of Central Support Services. The messenger sub-unit has a particularly high concentration of low-level General Service posts. During the biennium, staff within the sub-unit have been attracted by the availability of higher level General Service vacancies in other offices. As more and more junior level staff from this area have accepted positions in other offices, the result has been severe staff shortages and consequent reduction in deliveries. With approximately 30 per cent fewer staff, messenger runs have been reduced from three to two daily, and on occasions to one a day. Additionally, the sub-unit is no longer able to provide dedicated service to major conferences and, as is customary, to the various offices which require dedicated service during the General Assembly. The quality of service that is normally expected can no longer be maintained. With fewer staff available, overtime usage has increased; however, longer working hours have taken a toll on the morale, health and motivation of the staff, and there has been an increase in sick and emergency leave taken.

12. In dealing with the suspension, departments have utilized a number of interim measures. In some instances, the level of skills required has been lowered and the best available candidate accepted. There has been increased reliance on overtime and on individual contractors, normally for six-month periods. Professional staff have carried out their own functions and support functions simultaneously. The increased workload has negatively affected staff morale. Some offices have reprioritized where possible, focusing on the completion of operational work, while delaying the production of reports. In summary, while the use of individual contractors, and in some instances interns, may have alleviated problems in the short term, the suspension has led to production delays, and often to a failure to meet deadlines. These measures cannot be sustained.

13. As regards medium- to long-term issues, the General Service to Professional ratio continues to be subject to review. In paragraph 72 of resolution 56/253, the General Assembly noted with concern the high proportion of General Service posts compared to Professional posts in the regional commissions. In a number of cases, proactive steps have been taken to address this issue in the context of the review of staffing requirements in the proposed programme budget for 2006-2007 (see

table 18.27 of A/60/6 (Sect. 18)). As a result of the overall review of staffing requirements, the staffing table for 2006-2007 reflects a significant reconfiguration, resulting in the reduction of 92 General Service posts and the addition of 82 Professional posts.

14. In reporting on its review of the proposed programme budget for 2006-2007, the Advisory Committee on Administrative and Budgetary Questions indicated that, while there may be some General Service functions that could be combined or posts that could be abolished as the result of advances in information technology and measures to reduce duplication and inefficient administrative processes, it is of the view that the suspension of General Service recruitment across the board may have been too broad a measure. Accordingly, the Advisory Committee recommended that the suspension of recruitment be lifted (see A/60/7, para. 83). The Committee also noted that the proposed vacancy rates for General Service for 2006-2007 anticipate the lifting of the suspension.

15. The Advisory Committee further recommended that a comprehensive analysis of the functions performed by the General Service staff be undertaken, with a view to more accurately determining which posts can be eliminated without detriment to the work of the Organization. A consultant has been engaged to review the issue of the proportion of General Service staff to Professional staff. It is expected that the results of that review will be reported in the context of the second performance report for the 2004-2005 biennium.

IV. Conclusions and recommendation

16. **Taking into account the vacancy advertisement and processing time required for recruitment, the lifting of the suspension of recruitment in the General Service and related categories in the last quarter of 2005 would not result in any additional costs for the biennium 2004-2005. As regards the biennium 2006-2007, the normal General Service vacancy rate (1.5 per cent) used in the proposed programme budget for 2006-2007 anticipates the lifting of the suspension in recruitment; hence, no additional financial implications would arise in the forthcoming biennium. Accordingly, it is recommended that the General Assembly request the Secretary-General to lift the suspension of recruitment in the General Service and related categories effective 1 December 2005.**

Annex

Vacancy statistics for authorized posts under the regular budget as at 31 July 2005

		Professional			*General Service*			*Total*		
	Section	*Authorized*	*Vacant*	*Rate*	*Authorized*	*Vacant*	*Rate*	*Authorized*	*Vacant*	*Rate*
1.	Overall policymaking, direction and coordination	70	6	8.6	79	4	5.1	149	10	6.7
2.	General Assembly affairs and conference services	950	52	5.5	964	50	5.2	1 914	102	5.3
3.	Political affairs	140	16	11.4	127	10	7.9	267	26	9.7
4.	Disarmament	35	4	11.4	20	1	5.0	55	5	9.1
5.	Peacekeeping operations	52	3	5.8	329	26	7.9	381	29	7.6
6.	Peaceful uses of outer space	15	1	6.7	5	0	0.0	20	1	5.0
7.	International Court of Justice	45	4	8.9	53	1	1.9	98	5	5.1
8.	Legal affairs	85	5	5.9	61	3	4.9	146	8	5.5
9.	Economic and social affairs	318	18	5.7	224	9	4.0	542	27	5.0
10.	Least developed countries, landlocked developing countries and small island developing States	10	1	10.0	4	1	25.0	14	2	14.3
11.	United Nations support for the New Partnership for Africa's Development	19	3	15.8	11	2	18.2	30	5	16.7
12.	Trade and development	228	7	3.1	167	8	4.8	395	15	3.8
14.	Environment	29	1	3.4	17	1	5.9	46	2	4.3
15.	Human settlements	48	6	12.5	25	0	0.0	73	6	8.2
16.	Crime prevention and criminal justice	26	0	0.0	9	0	0.0	35	0	0.0
17.	International drug control	47	0	0.0	23	0	0.0	70	0	0.0
18.	Economic and social development in Africa	221	16	7.2	305	0	0.0	526	16	3.0
19.	Economic and social development in Asia and the Pacific	178	8	4.5	261	3	1.1	439	11	2.5
20.	Economic development in Europe	119	2	1.7	76	5	6.6	195	7	3.6
21.	Economic and social development in Latin America and the Caribbean	192	10	5.2	287	23	8.0	479	33	6.9
22.	Economic and social development in Western Asia	106	5	4.7	150	6	4.0	256	11	4.3
24.	Human rights	120	12	10.0	57	2	3.5	177	14	7.9
25.	Protection of and assistance to refugees	2	0	0.0	0	0	0.0	2	0	0.0

	Section	Professional			General Service			Total		
		Authorized	*Vacant*	*Rate*	*Authorized*	*Vacant*	*Rate*	*Authorized*	*Vacant*	*Rate*
26.	Palestine refugees	99	7	7.1	11	1	9.1	110	8	7.3
27.	Humanitarian assistance	44	3	6.8	17	0	0.0	61	3	4.9
28.	Public information	280	14	5.0	468	13	2.8	748	27	3.6
29.	Management and central support services	372	14	3.8	918	36	3.9	1 290	50	3.9
30.	Internal oversight	61	4	6.6	30	2	6.7	91	6	6.6
36.	Safety and security	52	28	53.8	877	108	12.3	929	136	14.6
	Subtotal	**3 963**	**250**	**6.3**	**5 575**	**315**	**5.7**	**9 538**	**565**	**5.9**
	Income section 3 Services to the public	15	3	20.0	88	8	9.1	103	11	10.7
	Subtotal	**15**	**3**	**20.0**	**88**	**8**	**9.1**	**103**	**11**	**10.7**
	Total	**3 978**	**253**	**6.4**	**5 663**	**323**	**5.7**	**9 641**	**576**	**6.0**